

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

ELLIS LEE JORDAN,

Petitioner,

v.

Case No. 08-CV-560

UNITED STATES OF AMERICA,

Respondent.

ORDER

On February 18, 2009, the court denied Ellis Lee Jordan's ("Jordan") petition to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255. On March 2, 2009, Jordan filed a motion seeking a certificate of appealability.

The court may not issue a certificate of appealability unless the applicant has made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The Supreme Court has interpreted this requirement to mean that an applicant must show that "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). A petitioner need not show that the appeal will succeed, *Miller-El v. Cockrell*, 537 U.S. 322, 337 (2003), but a petitioner must show "something more than the absence of frivolity" or the existence of mere "good faith" on his part. *Id.* at 338 (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)). If the court determines that a petitioner has made a substantial showing of the denial of

a constitutional right, the court will identify the specific issues which satisfy the showing. 28 U.S.C. § 2253(c)(3).

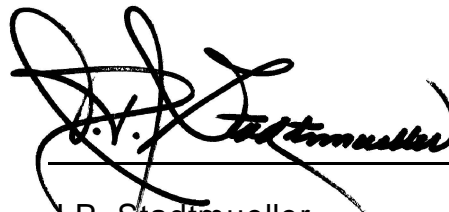
In support of his motion, Jordan sets forth six numbered paragraphs of case law, and concludes by asserting that his claim of ineffective assistance of appellate counsel remains unresolved. Jordan's motion contains essentially the same allegations that the court considered and rejected in its order denying Jordan's petition. In that order, the court found that Jordan had failed to show that his appellate counsel acted unreasonably. (Order, February 18, 2009, Docket #8). The court does not consider Jordan to have raised any debatable constitutional issues in his petition. Therefore, Jordan has not made a substantial showing of the denial of a constitutional right, and the court is obliged to deny Jordan's request for a certificate of appealability.

Accordingly,

IT IS ORDERED that petitioner's motion for a certificate of appealability (Docket #10) be and the same is hereby **DENIED**;

Dated at Milwaukee, Wisconsin, this 13th day of March, 2009.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line.

J.P. Stadtmueller
U.S. District Judge